

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

DOCKET NO. TSCA-08-2006-0003

IN THE MATTER OF:)	
)	
CAPITAL ELECTRIC COOPERATIVE)	
4111 STATE STREET)	FINAL ORDER
BISMARCK, ND 58502,)	
)	
Respondent.)	

Pursuant to 40 C.F.R. § 22.18(b)(3), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effectively immediately upon receipt by Respondent of this Consent Agreement and Final Order.

08.18.06
Date

SIGNED
Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

DOCKET NO. TSCA-08-2006-0003

IN THE MATTER OF:)	
)	
CAPITAL ELECTRIC COOPERATIVE)	
4111 STATE STREET)	CONSENT AGREEMENT
BISMARCK, ND 58502,)	
)	
Respondent.)	

Complainant, United States Environmental Protection Agency-Region 8, and Respondent, Capital Electric Cooperative, by their undersigned representatives, hereby consent and agree as follows:

1. On or about July 19, 2006, Complainant issued a Complaint to Respondent in this matter alleging certain violations of the Toxic Substances Control Act (TSCA) and its implementing regulations. In the Complaint, Complainant proposed a civil penalty of \$12,000.

2. Respondent admits the jurisdictional allegations, and neither admits nor denies the remaining allegations, of the Complaint. Respondent waives its right to contest any allegations at a hearing or at a civil proceeding in connection with the enforcement of the Final Order incorporating this Consent Agreement.

3. Within thirty (30) calendar days of receipt of a fully-executed Consent Agreement in this matter, Respondent shall pay a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000) by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA-Region 8
(Regional Hearing Clerk)

P.O. Box 360859M
Pittsburgh, PA 15251

The payment shall reference the name and address of Respondent and the EPA Docket Number of this action. A copy of the transmittal of payment shall be sent simultaneously to:

Jessie Goldfarb (8ENF-L)
Senior Enforcement Attorney
U.S. EPA-Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

4. If Respondent fails to pay the amount specified in Paragraph 3 by the due date specified in that Paragraph, the entire proposed penalty of TWELVE THOUSAND DOLLARS (\$12,000) shall immediately become due and owing by Respondent. Furthermore, interest on the entire proposed penalty of TWELVE THOUSAND DOLLARS (\$12,000) shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of ONE HUNDRED DOLLARS (\$100) shall be imposed upon Respondent after the first 30 days that a payment, or any portion thereof, is overdue, with an additional charge of FIFTY DOLLARS (\$50) imposed for each subsequent 30-day period until the payment due is received. In addition, a six per cent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of any installment due date.

5. Respondent understands that failure to comply with any of the terms of this Consent Agreement, upon incorporation into a Final Order, will constitute a breach of the Agreement and Order and may result in referral of the matter to the United States Department of Justice for enforcement of the Agreement, and for such other relief as is deemed appropriate.

6. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

7. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the specific violations alleged in the Complaint in this matter.

8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with TSCA, its implementing regulations, and other environmental laws.

9. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

10. The parties agree to bear their own costs and attorney fees.

11. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and bind that party to the Consent Agreement.

**U.S. ENVIRONMENTAL PROTECTION AGENCY-
REGION 8, Complainant**

8/17/06

Date

Cynthia J. Reynolds for/

Martin Hestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

8/17/06

Date

SIGNED

David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

8-17-06

Date

SIGNED

Jessie Goldfarb
Senior Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

CAPITAL ELECTRIC COOPERATIVE, Respondent.

August 17, 2006

Date

SIGNED

Ordean "Lars" Nygren
General Manager

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **CAPITAL ELECTRIC COOPERATIVE, DOCKET NO.: TSCA-08-2006-0003** was filed with the Regional Hearing Clerk on August 18, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jessie Goldfarb, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on August 18, 2006, to:

Ordean “Lars” Nygren
General Manager
Capital Electric Cooperative
4111 State Street North
Bismarck, ND 58502

And Regular Mail to:

U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

August 18, 2006

SIGNED _____
Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK’S OFFICE
ON AUGUST 18, 2006.**

Printed on Recycled Paper

